

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

JERRY L. HIGH,)	Civil Action No. 4:20-cv-3235-RBH-TER
)	
Plaintiff,)	
)	
-vs-)	
)	ORDER
)	
RAY CHANDLER, DOUG THORTON,)	
PARK SMALL,)	
)	
Defendants.)	
)	

This case was filed in the Horry County Court of Common Pleas on August 3, 2020, and removed to this court by Defendant Small on September 10, 2020. In the Notice of Removal, Defendant Small indicates, upon information and belief, that he and Defendant Chandler have been served and Defendant Chandler has filed an answer.¹ He indicates, upon information and belief, that Defendant Thorton has not been served.

The Federal Rules of Civil Procedure (“FRCP”) require a Plaintiff to file proof of service of a Defendant pursuant to Rule 4(l); however, as of the date of this Order, Plaintiff has not filed such. Pursuant to Rule 4(m) of the FRCP, service of the summons and complaint must be effected within 90 days after the filing of the Complaint, or for removal cases, within 90 days from the date of removal. See Fed. R. Civ. P. 4(m); Wallace v. Microsoft Corp., 596 F.3d 703, 706 (10th Cir. 2010). If Plaintiff fails to comply within such time limitation, the Court may on its own initiative dismiss the action against that defendant after notice to the Plaintiff. See id.; Local Rule 4.01 (D.S.C.).

¹Defendant Small, the removing defendant, is directed to provide the court with all filings in the state court docket at the time of removal within ten days of the date of this order.

Therefore, the Court hereby provides notice to the Plaintiff that it will dismiss this action against Defendant Thorton, without prejudice, ten days from the date of this Order if proof of service has not been filed within this time. In the event Defendant Thorton has not been served, to avoid dismissal, Plaintiff must show good cause for failure to timely serve the Defendants. See Martinez v. United States, 578 Fed. App'x 192, 193 (4th Cir. 2014) ("A plaintiff may escape dismissal for failure to timely serve process only if she demonstrates 'good cause' for the delay." (quoting Fed. R. Civ. P. 4(m))).²

IT IS SO ORDERED.

s/Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge

January 13, 2021
Florence, South Carolina

²Rule 4(c)(3) of the Federal Rules of Civil procedure provides "[a]t the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court." Such order of service is within the court's discretion when Plaintiff is not proceeding in forma pauperis and must be requested by Plaintiff. See Johnson v. Master foods USA, 2011 WL 1750884, *2 (E.D.N.C. May 6, 2011).